



Applicant: Quigley, *et. al.*

Title: DISCHARGE CHUTE FOR
CONCRETE

Appl. No.: 09/713,744

Filing Date: 11/15/2000

Examiner: Jeffrey A. Shapiro

Art Unit: 3651

Date 12/16/03 Express Mail No. EL979073179
US

I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

By *Fori A. Wilson*
Signature of Person Depositing Express Mail

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GROUP 3600

Declaration of Scott Steckling under 37 C.F.R. § 1.131

I, Scott Steckling, declare:

1. I am an adult resident of the State of Wisconsin.
2. I am, and at all relevant times was, an engineer employed by Oshkosh Truck Corporation, Oshkosh, Wisconsin ("OTC"), in its New Product Development ("NPD") department.
3. As such, I was critically involved in the conception and reduction to practice of OTC's lightweight, plastic-lined, aluminum concrete chute, which is the subject of OTC's U.S. Patent Application (Serial No. 09/713,744).
4. As a project engineer for the lightweight chute project, I supervised the testing performed and documented by Daniel R. Egan and described in his declaration dated December 16, 2003. I have read and agree with the contents of that declaration.
5. Prior to the August 23, 1999 test of a metal chute with plastic liner described in Dan Egan's affidavit, I and others at Oshkosh Truck Corporation had conceived of a lightweight aluminum plastic-lined concrete chute. Our preliminary wear testing, described in Daniel R. Egan's declaration, had demonstrated that:
 - a. A plastic-lined aluminum chute could be employed to endure a large number of concrete pouring cycles; and
 - b. A plastic liner could be reliably mounted, using a metal retainer means, within a metal concrete chute without the use of threaded, or other, fasteners.

7. On September 3, 1999, I met with John Skalla at NPD, who at the time was a representative of Cope Plastics, Inc. ("CPI"), a plastics supplier to Oshkosh Truck Corporation, and who, I believe, later became a representative of E.J. Metals, a metal fabrications supplier to OTC. I recorded the date of this meeting in my OTC-issued Franklin Day Planner, the use of which is a standard business practice of OTC employees. A copy of the pertinent page is attached as Exhibit A.

8. It is also an established business practice of OTC to require, as a condition of entering OTC facilities, that all visitors sign a visitor's log. Mr. Skalla, as a matter of accepted business practice, would have signed the visitors' log on each and every visit to OTC. As would have occurred with each and every other visit, Mr. Skalla signed the visitor's log on September 3, 1999, indicating an NPD visit to my supervisor, Tom Quigley, who is another named inventor on the OTC patent application cited above. (Copy attached hereto as Exhibit B.) During his visit to meet with my supervisor, Mr. Skalla also met with me. As can be seen, the OTC visitors' log that Mr. Skalla signed contained the following statement directly above his signature:

In consideration of permission to enter the premises of Oshkosh Truck Corporation, I agree not to disclose to others or use any trade secret or confidential information disclosed by Oshkosh Truck Corporation or derived by me during this visit. My signature certifies that I have read and understand this agreement.

8. Prior to or no later than this September 3, 1999, meeting, Mr. Skalla, under this condition of confidentiality, had been made aware of several OTC concepts for lightweight concrete chutes, including plastic-lined aluminum chutes and chutes made completely of composite material. We discussed both of these at the September 3, 1999, meeting, and Mr. Skalla indicated that, prior to September 3, he had been shown the test stand described in the declaration of Daniel R. Egan, and in particular, indicated he had been shown the means employed on the plastic lined test chute to secure the plastic liner with frame-mounted tabs without the use of threaded fasteners. As of September 3, 1999, the plastic-lined metal chute employing the metal retainer means had undergone more than 51,000 test cycles.

9. On October 20, 1999, John Skalla and Kevin J. Quinn (of E.J. Metals) visited me at my office for "sales" purposes (See copies of visitors' log and Franklin Planner pages, attached hereto as Exhibits C and D, respectively). Mr. Skalla and Mr. Quinn showed me a drawing for a plastic-lined aluminum chute, which incorporated a metal retainer means for securing the plastic liner that was essentially a continuous version of the metal tabs shown to Mr. Skalla earlier and described in the declaration of Daniel R. Egan.

10. In my opinion as an engineer the chute pictured in the drawing presented to me contained several crucial flaws that would prevent it from performing its specified function and requested they make the following changes:

- a. the shear pin hinges should be in double shear, not single shear as shown in the drawing; and
- b. the skin thickness of the chute pictured in the drawing was unacceptably thin, and a thicker material should be used.

11. On January 28, 2000, Oshkosh Truck Corporation, despite our opinion that the chute drawing shown to me on October 20, 1999, was grossly inadequate, performed a static test on a prototype of the chute shown in the drawing. The chute catastrophically failed under minimal static loading conditions. OTC again advised Mr. Skalla and Mr. Quinn of the design features necessary for a satisfactorily robust product.

12. Oshkosh performed static tests of its designs on prototypes assembled according to our instructions by EJ Metals. Through an iterative process of testing and re-designing, OTC arrived at the final design for the chute pictured in the OTC patent application cited above. Specific design features ordered by OTC included a reinforcement channel added to the outside bottom surface of the chute to keep it from buckling under the static and dynamic loads encountered under normal customer use; and the replacement of the "stitch" welds shown in the drawing with continuous welds to allow the chute to withstand normal customer use.

13. Because Mr. Skalla and Mr. Quinn were acting not as inventors, but as suppliers manufacturing prototypes based on Oshkosh's concept and specifications, I was surprised when, in July, 2000, Mr. Skalla informed me he had filed a patent on

the plastic-lined aluminum concrete chute that OTC had conceived, tested, designed and developed.

14. I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. I make the statements set forth above of my own personal knowledge and, if called upon to do so, could testify competently thereto. I acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the patent application and any corresponding patent.

Dated: 12/16/03



Scott Steckling

Steckling

**Friday
September 1999**

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MOLDED PLASTIC CHUTE

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PM

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- Planned Forward
- ✗ Task Deleted
- G⊗ Delegated Task
- In Process

August 1999							October 1999						
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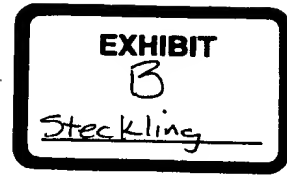
Prioritized Daily Task List

Daily Expenses

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Original-CL

1999



VISITOR LOG

In consideration of permission to enter the premises of Oshkosh Truck Corporation, I agree not to disclose to others or use any trade secret or confidential information disclosed by Oshkosh Truck Corporation or derived by me during this visit. My signature certifies that I have read and understand this agreement.

DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
9/3	Poly HI Soliduc	Tim Wurdach	Tim Wurdach
POINT OF CONTACT	T. Gulgley	PURPOSE OF VISIT	Sales

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DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
9/3	CPI	John Skala	John Skala
POINT OF CONTACT	Ben Gulgley	PURPOSE OF VISIT	Sales

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DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
9/3/99	Gullymu	Conrad Patrick	Conrad Patrick
POINT OF CONTACT	Chud Johnson	PURPOSE OF VISIT	Sales

1999

EXHIBIT

C
Steckling

VISITOR LOG

In consideration of permission to enter the premises of Oshkosh Truck Corporation, I agree not to disclose to others or use any trade secret or confidential information disclosed by Oshkosh Truck Corporation or derived by me during this visit. My signature certifies that I have read and understand this agreement.

DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
10/20	V66	HT Anderson	[Signature]
POINT OF CONTACT	P. Presbitero	PURPOSE OF VISIT	Sales

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DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
10/20	EJ METALS	KEVIN J QUINN	[Signature]
POINT OF CONTACT	Scott	PURPOSE OF VISIT	Sales

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DATE	NAME OF COMPANY	NAME OF VISITOR	SIGNATURE
10/20	CPI	John Stella	[Signature]
POINT OF CONTACT	Scott Steckling	PURPOSE OF VISIT	Sales

Steckling

**Wednesday
October 1999**

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↓ ABC Prioritized Daily Task List

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